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Attorneys for defendant  
Altec Industries, Inc.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

MICHAEL R. ANDERSON, )  
                        )  
Plaintiff,           )  
                        )  
v.                    )  
                        )  
ALTEC INDUSTRIES, INC., ) Case No.  
                        )  
Defendant.           ) **NOTICE OF REMOVAL FROM**  
                        ) **STATE COURT**  
                        )

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COMES NOW defendant, Altec Industries, Inc., and hereby gives notice that pursuant to 28 U.S.C. § 1332, it has this day filed in the United States District Court for the District of Alaska this Notice of Removal of the following action: Michael R. Anderson vs. Altec Industries, Inc., Case No. 3KN-08-00111 Civil, filed in the Superior Court for the State of Alaska, Third Judicial District at Kenai. Defendant has filed a copy of this Notice of

Removal with the Clerk of the Superior Court for the Third Judicial District at Kenai, Case No. 3KN-08-00111 Civil, and that this action is thereby removed from the Superior Court to the United States District Court. See Exhibit A hereto ("Notice of removal to United States District Court" without attachments).

The grounds for removal are as follows: Diversity of citizenship pursuant to 28 U.S.C. § 1332. Plaintiff's complaint alleges that a product sold by Altec Industries, Inc. was defective and negligently made, and that such product and negligence caused plaintiff personal injury damages in excess of \$100,000. Plaintiff is a citizen of Alaska. Defendant was incorporated in Alabama and has its principle place of business in Alabama. Therefore, complete diversity of citizenship exists.

This motion is timely filed, as suit was filed by plaintiff in Alaska Superior Court, Third Judicial District at Kenai, on or about February 13, 2008, and process was not sent to defendant Altec Industries, Inc. until July 8, 2008.<sup>1</sup>

Based on the above, this court has both original and removal jurisdiction over this action and defendant is entitled to remove this action from the Superior Court for the State of Alaska.

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<sup>1</sup> Altec Industries, Inc. submits that plaintiff has not properly served process because it was not sent to Altec's registered agent. Altec files this Notice of Removal without prejudice, and without waiving any rights, to raise improper service as an affirmative defense in Altec's Answer.

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Respectfully submitted this 21<sup>st</sup> day of July, 2008, at Anchorage,  
Alaska.

/s/ Robert L. Richmond  
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/s/ Kenneth M. Gutsch  
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Attorneys for Defendant,  
Altec Industries, Inc.

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by mail this 21st day of July, 2008 on:

Joseph L. Kashi  
35477 Spur Highway, Suite 212  
Soldotna, AK 99669

/s/ Robert L. Richmond  
/s/ Kenneth M. Gutsch  
RICHMOND & QUINN

2306.001\Pld\Notice of Removal (USDC filing)

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